



2020 CCO-LTSS MOU Guidance

Confidentiality and Information Sharing between CCOs and DHS APD/AAA

This guidance document identifies federal and state laws and rules – collectively, Applicable Law(s) – pertaining to confidentiality and information sharing between CCOs and DHS APD/AAA. This document is not intended as legal advice. It does not identify all Applicable Law(s) pertaining to confidentiality and information sharing. It is the CCO's responsibility to consult with their legal counsel and Privacy Officer about the application of these and other laws and rules to their organization.

Applicable Laws

The Oregon Health Authority (OHA) and Coordinated Care Organization (CCOs) are Covered Entities for purpose of the privacy and security provisions of the Health Insurance Portability and Accountability Act (HIPAA) and its implementing federal regulations at 45 CFR Parts [160](#) and [164](#). As stated in [OAR 407-014-0015](#), the Oregon Department of Human Services (DHS) is a Business Associate of OHA. HIPAA allows the sharing of Protected Health Information (PHI) between Covered Entities and Business Associates, including between a Covered Entity (CE) and the Business Associate (BA) of another CE.

45 CFR Part [164](#) Subpart E describes the circumstances under which CEs and BAs may use and disclose PHI about an individual. It also describes when CEs and BAs may do so *without* the individual's written consent. The corresponding State laws are [ORS 192.553 to ORS 192.581](#).

Under Applicable Laws, CEs and BAs may share PHI about an individual for treatment, payment, and health care operation activities without the individual's written consent. Health care operation activities include case management or care coordination.

Information Sharing Expectation

The contractually required CCO-LTSS Memorandum of Understanding (MOU) is about collaboration to improve care coordination and outcomes for CCO Members receiving Long Term Services and Supports (LTSS) through DHS Aging and People with Disabilities/Area Agency on Aging (APD/AAA) offices.

[ORS 414.607\(3\)](#) communicates the expectation for sharing of CCO Member information between CCOs and DHS APD/AAA offices. This statute requires a CCO, its provider network, and DHS APD/AAA office to "...use and disclose member information for purposes of service and care delivery, coordination, service planning, transitional services and reimbursement, in order to improve the safety and quality of care, lower the cost of care and improve the health and

well-being of the organization’s members.” [ORS 414.607\(5\)](#) states, “This section does not prohibit the disclosure of information between a coordinated care organization and the organization’s provider network, and the Oregon Health Authority and the Department of Human Services for the purpose of administering the laws of Oregon.”

DHS APD/AAA offices are not subcontractors of CCOs for the activities covered in the MOU. The CCO is not expected to require a DHS APD/AAA office to execute a HIPAA Business Associate Agreement in relation to the MOU. However, the CCO may make a different determination if it contracts with a DHS APD/AAA office for services beyond the scope of the MOU.

Questions?

If CCOs have questions about the CCO-LTSS MOU or need technical assistance, please contact:

OHA: Jennifer Valentine, Operations and Policy Analyst, Health System Division
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DHS: Naomi Sacks, Operations and Policy Analyst, APD LTSS
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Useful Resources

1. HIPAA and Health Plans - Care Coordination and Continuity of Care

<https://www.hhs.gov/hipaa/for-professionals/faq/3014/uses-and-disclosures-for-care-coordination-and-continuity-of-care/index.html>

2. Understanding Some of HIPAA’s Permitted Uses and Disclosures

<https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/permitted-uses/index.html>

Fact Sheets:

- [Permitted Uses and Disclosures for Health Care Operations](#) (PDF)
- [Permitted Uses and Disclosures: Exchange for Treatment](#) (PDF)

3. Department of Health and Human Services (DHHS) Guidance on Significant Aspects of the Privacy Rule

<https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/introduction/index.html>